



MEMORANDUM

To: Members, Energy and Commerce Committee
From: Majority Staff
Re: Communications and Technology Subcommittee Hearing

I. INTRODUCTION

On Wednesday, June 21, 2023, at 10:30 a.m. (ET), the Subcommittee on Communications and Technology will hold a hearing in 2123 Rayburn House Office Building titled, “Oversight of the Federal Communications Commission.”

II. WITNESSES

- The Honorable Jessica Rosenworcel, Chairwoman, Federal Communications Commission
- The Honorable Brendan Carr, Commissioner, Federal Communications Commission
- The Honorable Geoffrey Starks, Commissioner, Federal Communications Commission
- The Honorable Nathan Simington, Commissioner, Federal Communications Commission

III. BACKGROUND

The Federal Communications Commission (FCC) is an independent agency established pursuant to the Communications Act of 1934 to regulate interstate and international communications by radio, television, wire, satellite, and cable. The agency is comprised of five Commissioners, appointed by the President and confirmed by the Senate.¹ The President designates one of the Commissioners to serve as Chairman, and no more than three Commissioners may be members of the President’s political party. There is currently one vacancy on the Commission.

On May 22, 2023, President Biden nominated Anna Gomez to fill the vacant seat.² Ms. Gomez is the President’s second nominee for this seat; he previously nominated Gigi Sohn, who withdrew from consideration in March. The President also renominated Commissioners Carr and Starks to new terms.³

¹ Communications Act of 1934 § 4, *codified at* 47 U.S.C. § 154.

² Press Release, President Biden Announces Federal Communications Commission Nominees, White House (May 22, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/22/president-biden-announces-federal-communications-commission-nominees/>

³ *Id.*

Congress last reauthorized the FCC in 2018, authorizing \$333 million for fiscal year (FY) 2019 and \$339 million for FY2020 to carry out the functions of the agency.⁴ The FCC currently employs approximately 1,600 full-time equivalents (FTE) and was appropriated \$390,192,000 for FY2023. The FCC requests \$410,743,000 for FY2024.⁵

IV. Selected Issues:

1. Broadband

Universal Service Fund

The FCC's Universal Service Fund (USF) program is a user-fee-based support program that subsidizes broadband and telephone services in high-cost, typically rural, areas (High-Cost Program), for low-income households (Lifeline Program), in schools and libraries (E-Rate Program), and at rural health-care facilities (Rural Health Care Program). The Universal Service Administrative Company (USAC), an independent, non-profit entity, administers the USF and is funded through the USF.

In 2022, USAC disbursed more than \$7.4 billion for the four USF programs: \$4.3 billion of which went to the High-Cost Program, \$2 billion to E-Rate, \$610 million to Lifeline, and \$497 million to the Rural Health Care program.⁶

The USF is funded through assessments from telecommunications providers based on a percentage of their interstate voice-service revenues. Providers usually pass this cost on to their customers. The percentage, known as the contribution factor, is adjusted each quarter. The contribution factor for the second quarter of 2023 is 29 percent.⁷ The highest contribution factor was 33.4 percent in the second quarter of 2021.⁸

The increase of the contribution factor from 5.5 percent in 2000⁹ to where it stands today has led to proposals to broaden the contribution base to include broadband and edge providers. At the same time, the purpose of the USF has come into question in light of recent Congressional spending on broadband deployment, affordability, and distance learning—functions duplicative of the USF. The Infrastructure Investment and Jobs Act (IIJA) directed the FCC to conduct a

⁴ Consolidated Appropriations Act, 2018, P.L. 115-141, div. P, tit. I, § 101 (2018).

⁵ FCC, FY2024 Budget Estimates to Congress (2023), <https://docs.fcc.gov/public/attachments/DOC-391605A1.pdf>.

⁶ Universal Serv. Admin. Co., 2022 Annual Report at 4 (2023), https://www.usac.org/wp-content/uploads/about/documents/annual-reports/2022/USAC_2022_Annual_Report.pdf.

⁷ Universal Serv. Admin. Co., Contribution Factors (2023), <https://www.usac.org/service-providers/making-payments/contribution-factors/>.

⁸ *Id.*

⁹ *Proposed Second Quarter 2000 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 00-517 (rel. Mar. 7, 2000), <https://docs.fcc.gov/public/attachments/DA-00-517A1.pdf>.

study on the future of the USF,¹⁰ which the FCC released in August 2022.¹¹ The report made a series of recommendations for Congressional action.

High-Cost. In January 2020, the FCC established the \$20.4 billion Rural Digital Opportunity Fund (RDOF), a two-phase reverse auction of ten-year support to assist the deployment of fixed broadband in rural areas.¹² The Phase I auction was completed on December 7, 2020, with 180 bidders winning \$9.23 billion in ten-year support to serve 5,220,833 locations in 49 states and one territory.¹³ Winning bidders were required to submit long-form applications containing more detailed information about their technical and financial capability to meet their public interest buildout obligations. To date, the FCC has authorized over \$6 billion in Phase I support to over 300 providers in 49 states and territories to bring service to nearly 3.5 million locations.¹⁴ In August 2022, the FCC announced that it rejected bids by LTD Broadband and Starlink—two of the largest winners in the RDOF auction with over \$2.2 billion combined—citing LTD’s failure to meet regulatory requirements in certain states and uncertainty over Starlink’s ability to deliver required speeds consistently.¹⁵

RDOF succeeds the Connect America Fund (CAF), the FCC’s first program “to support networks capable of providing both voice and broadband services.” CAF transitioned most high-cost providers from cost-based regulation to incentive-based support mechanisms using forward-looking broadband cost models and competitive bidding.

The FCC also plans to support mobile broadband providers’ deployment in high-cost areas. In 2020, the FCC approved rules creating a 5G Fund, which would auction up to \$9 billion in USF support to carriers to deploy 5G-capable networks in rural America.¹⁶ The FCC originally planned to begin the auction upon the release of new broadband maps but now plans to wait to consider new mobile broadband availability data and “the impact of programs like BEAD, before moving forward with new approaches to long-term support for mobile broadband.”¹⁷

Lifeline. The Lifeline Program provides support to low-income consumers by subsidizing both fixed and mobile voice and broadband services. Lifeline providers currently receive a

¹⁰ Infrastructure Investment and Jobs Act, P.L. 117-58, div. F, tit. I § 60104(b) (2021) (IIJA).

¹¹ *Report on the Future of the Universal Service Fund*, FCC No. 22-67, WC Docket No. 21-476, Report (rel. Aug. 15, 2022), <https://www.fcc.gov/document/fcc-reports-congress-future-universal-service-fund>.

¹² *Rural Digital Opportunity Fund*, Report and Order, WC Docket No. 19-126 et al., 35 FCC Rcd 686, (2020), <https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf>.

¹³ *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes*, WC Docket No. 19-126 et al., Public Notice, 35 FCC Rcd 13888 (2020), <https://www.fcc.gov/document/auction-904-winning-bidders>.

¹⁴ *Auction 904: Authorized PN - Applicant-State level Summary as of January 13, 2023*, <https://www.fcc.gov/file/24626/download>.

¹⁵ Press Release, FCC Rejects Applications Of Ltd Broadband and Starlink For Rural Digital Opportunity Fund Subsidies, FCC (Aug. 10, 2022), <https://www.fcc.gov/document/fcc-rejects-ltd-broadband-starlink-bids-broadband-subsidies>.

¹⁶ *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Report and Order, 35 FCC Rcd 12174 (2020), <https://docs.fcc.gov/public/attachments/FCC-20-150A1.pdf>.

¹⁷ Letter from Jessica Rosenworcel, Chairwoman, FCC, to The Hon. Roger F. Wicker, Ranking Member, S. Comm. on Commerce, Sci. & Transp. (Nov. 10, 2022), <https://docs.fcc.gov/public/attachments/DOC-389366A2.pdf>.

reimbursement of up to \$5.25 per consumer per month for voice-only service, and \$9.25 per consumer per month for broadband service of at least 4.5 GB/month. Some states provide additional reimbursement. The FCC planned to drop support for voice service to \$0 in December 2021 but paused the phase-out until December 1, 2023.¹⁸ Similarly, the FCC has paused a planned increase of the minimum service standard for mobile broadband.¹⁹

Waste, fraud, and abuse has been a serious problem for the Lifeline program.²⁰ To address this problem, the FCC established the National Verifier, a centralized system that uses state and federal databases and other sources to determine whether applicants are eligible for Lifeline. It helps providers initiate new applications, check eligibility, and check the status of an application. The FCC also established the National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers.

Rural Health Care. Rural Health Care (RHC) provides funding to eligible health-care providers for telecommunications and broadband services necessary to provide health care. RHC is comprised of two core programs: the Healthcare Connect Fund and the Telecommunications Program. The RHC budget cap for funding year 2022 was \$637,721,108.²¹

During the Covid-19 pandemic, the FCC also established the Connected Care Pilot Program to support telehealth for low-income Americans, especially those living in rural areas and veterans. This separate three-year pilot program will provide up to \$100 million of support from the USF to help defray health-care providers' costs of providing connected care services.

E-Rate. The Schools and Libraries program, or E-Rate, provides funding to eligible schools, school districts, and libraries to obtain affordable broadband service. Support depends on the poverty level of the school or library and whether the school or library is located in an urban or rural area. Schools and libraries may request funding support under two categories of service, which allow for support for either telecommunications, telecommunications services, and Internet access, or services that deliver Internet access, such as internal connections and basic maintenance of internal connections. The cap for funding year 2023 was \$4.77 billion and is adjusted each year.²²

¹⁸ See *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 et al., Order, DA-22-706 (WCB 2022), <https://docs.fcc.gov/public/attachments/DA-22-706A1.pdf>.

¹⁹ *Id.* The minimum service standard was supposed to increase to 6.5 GB/month beginning December 1, 2022.

²⁰ *Bridging the Digital Divide for Low-Income Consumers*, WC Docket. No. 17-287, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 10886 ¶¶ 4-13 (2019); see also FCC Office of Inspector General, Advisory Regarding Fraud in the Lifeline Program at 1 (Apr. 16, 2019), <https://docs.fcc.gov/public/attachments/DOC-357035A1.pdf> (“Fraud remains a serious problem for the Lifeline program” and “[m]uch of the fraud found in the Lifeline program occurs during the subscriber enrollment.”); GAO, Telecommunications: Additional Action Needed to Address Significant Risks in FCC’s Lifeline Program, GAO-17-538 at 37-40 (2017) (stating that GAO was unable to confirm the eligibility of 36% of the Lifeline subscribers in its review.).

²¹ See *Wireline Competition Bureau Announces E-Rate and RHC Programs’ Inflation-Based Caps for Funding Year 2023*, CC Docket No. 02-6 et al, Public Notice, DA-23-178 (WCB Mar. 3, 2023), <https://docs.fcc.gov/public/attachments/DA-23-178A1.pdf>.

²² *Id.*

Covid and Infrastructure Investment and Jobs Act (IIJA) Programs

Telehealth. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided the FCC with \$200 million to respond to the coronavirus pandemic by supporting telecommunications services, information services, and devices necessary to enable telehealth.²³ The Consolidated Appropriations Act, 2021 provided an additional \$250 million to the FCC's COVID-19 Telehealth Program.²⁴ All funding under the program was committed.

Emergency Broadband Benefit/Affordable Connectivity Program. The Consolidated Appropriations Act, 2021 established the temporary \$3.2 billion Emergency Broadband Benefit (EBB) program at the FCC to provide support for low-income Americans to get connected or remain connected to the Internet during the COVID-19 public health emergency.²⁵

The IIJA amended EBB, renaming it the Affordable Connectivity Program (ACP) and making it permanent.²⁶ Additionally, Congress changed certain program requirements. These amendments included raising the threshold for eligibility from 135 percent less than the federal poverty level to 200 percent less than the federal poverty level and reducing the monthly discount on Internet service from \$50 per month to \$30 per month for eligible households that are not on qualifying Tribal lands. Congress also appropriated an additional \$14.2 billion dollars for the ACP. As of June 5, there are over 18 million households enrolled in ACP and \$8.6 billion remaining to disburse.²⁷ The remaining funds will likely be depleted by early-to-mid 2024.

The FCC's administration of EBB/ACP has come under scrutiny. On November 22, 2021²⁸ and September 8, 2022,²⁹ the FCC Office of Inspector General (FCC OIG) issued advisories regarding EBB enrollment fraud. Further, the Government Accountability Office (GAO) found that the agency did not have adequate performance goals and measures, and that it did not have adequate antifraud controls.³⁰ In May, House Energy and Commerce Chair Cathy McMorris Rodgers and Senate Commerce Committee Ranking Member Ted Cruz sent a letter to the FCC OIG requesting a review of the FCC's management of these programs. FCC OIG

²³ Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136 (2020).

²⁴ Consolidated Appropriations Act, 2021, P.L. 116-260, div. N, tit. IX, § 903 (2020) (Consolidated Appropriations Act, 2021).

²⁵ *Id.* § 904 (2020)

²⁶ IIJA, div. F tit. V § 60501 et seq.

²⁷ Universal Serv. Admin. Co., ACP Enrollment and Claims Tracker (last accessed June 11, 2023), <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/#total-enrolled>

²⁸ FCC Office of Inspector General, Advisory Regarding Fraudulent EBB Enrollments Based on USDA National School Lunch Program Community Eligibility Provision," (Nov. 22, 2021), <https://www.fcc.gov/document/fcc-inspector-general-issues-advisory-regarding-ebb-enrollment-fraud>.

²⁹ FCC Office of Inspector General, Advisory Regarding Provider Enrollments of Multiple ACP Households Based on the Same Child/Dependent, (Sept. 8, 2022), https://www.fcc.gov/sites/default/files/oig_advisory_duplicate-bqps_09082022.pdf.

³⁰ GAO, Affordable Broadband: FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk Management, GAO-23-105399 (2023), <https://www.gao.gov/products/gao-23-105399>.

responded on May 30, stating that it is conducting multiple investigations and will have more information upon completion of its 2023 ACP audit.³¹

Emergency Connectivity Fund. Section 7402 of the American Rescue Plan Act created the \$7.171 billion Emergency Connectivity Fund and required the FCC to promulgate rules for use of the fund to provide eligible equipment or connectivity to schools and libraries to support remote learning by their students, staff, or patrons.³² As of May 31, the FCC has awarded nearly \$6.7 billion of these funds.³³

Broadband Mapping

National Broadband Map. The increased need for broadband highlights the importance of identifying which areas have broadband and which areas do not. To accomplish this task, the FCC creates maps to identify served and unserved areas. Previous FCC maps relied on census-block level data from providers and overstated the availability of broadband in some areas, creating an obstacle to further deployment.

On March 23, 2020, Congress enacted the Broadband DATA Act, which reformed the FCC's mapping process.³⁴ The law directed the FCC to issue new rules on the collection of granular broadband availability data from providers every six months, establish a challenge process to verify the accuracy of such data, develop a process for state and local governments and third parties to submit availability data, and create a broadband serviceable location fabric to identify every broadband-serviceable location in the country. Through the Consolidated Appropriations Act, 2021, Congress provided the FCC \$98 million to fulfill its obligations under that law.

The FCC released a “pre-production” version of its new map on November 18, 2022. Although the map was a significant improvement over previous FCC maps, it still had flaws, including missing communities. The FCC released an updated map, which included new data from providers and adjudicated challenges to the pre-production map, on May 30.³⁵ According to that map, 8.3 million homes and businesses lack access to broadband.³⁶

³¹ Letter from Sharon R. Diskin, Acting Inspector Gen., FCC, to The Hon. Cathy McMorris Rodgers, Chair, House Comm. on Energy and Commerce and The Hon. Ted Cruz, Ranking Member, Sen. Comm. on Commerce, Science, and Transp., May 30, 2023, <https://s3.amazonaws.com/warren-news.com/pdf/880931>.

³² American Rescue Plan Act of 2021, P.L. 117-2, tit. VII, subtit. D § 7402.

³³ Press Release, FCC Announces Over \$15 Million for Emergency Connectivity Funding for Schools and Libraries (May 31, 2023), <https://docs.fcc.gov/public/attachments/DOC-393923A1.pdf>.

³⁴ Broadband Deployment Accuracy and Technological Availability (DATA) Act, P.L. 116-130 (2020), *codified at* 47 U.S.C. 641, et seq.

³⁵ FCC National Broadband Map, FCC, <https://broadbandmap.fcc.gov/home>.

³⁶ Jessica Rosenworcel, National Broadband Map: It Keeps Getting Better (May 30, 2023), <https://www.fcc.gov/national-broadband-map-it-keeps-getting-better>.

Broadband Funding Map. Section 60105 of the IIJA directs the FCC to establish an online mapping tool showing where the Federal government (FCC, NTIA, USDA, and Treasury) is funding broadband deployment.³⁷ The FCC released the first version of this map on May 15.³⁸

2. Spectrum

Spectrum Auctions

Spectrum auctions are one of the most heavily utilized mechanisms for making spectrum available for commercial use. Auctions also bring in revenue for the federal government, which historically has been used to fund Congressional priorities and reduce the deficit. Congress first established auction authority for the FCC in the Omnibus Budget Reconciliation Act of 1993,³⁹ giving the FCC blanket authority to auction any radiofrequencies without additional authorization from Congress. This key authority has been extended on a limited basis several times since then—most recently in the Consolidated Appropriations Act of 2023⁴⁰—but expired on March 9, 2023.

The Committee has acted multiple times to extend the FCC’s auction authority beyond 2023. In the 117th Congress, the House passed H.R. 7624, the Spectrum Innovation Act, which would have extended auction authority for 18 months, directed proceeds from future auctions to fund Committee priorities, and established an Incumbent Informing Capability to facilitate greater commercial access to Federal spectrum.⁴¹ More recently, the Committee unanimously passed H.R. 3565, the Spectrum Auction Reauthorization Act of 2023, which would extend auction authority until September 30, 2026, and direct proceeds from future auctions to fund Committee priorities.⁴²

Although the FCC does not have general auction authority, Congress has authorized specific auctions. On November 2, 2015, Congress enacted section 1004 of the Bipartisan Budget Act of 2015, which directs the FCC to begin an auction of 30 MHz of spectrum below 3 GHz (except between 1675-1695) no later than July 1, 2024.⁴³ On November 15, 2021, Congress enacted section 90008 of the IIJA, which directs the FCC to begin an auction of spectrum identified between 3.1 and 3.45 GHz (lower 3 GHz) that could be made available on a shared basis between Federal use and non-Federal commercial licensed use, subject to flexible-use

³⁷ Infrastructure Investment and Jobs Act, P.L. 117-58, div. F, tit. I § 60105(b) (2021).

³⁸ Broadband Funding Map, FCC, <https://fundingmap.fcc.gov/home>.

³⁹ The Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, § 6002 (1993).

⁴⁰ Consolidated Appropriations Act, 2023, P.L. 117-328, div. O, tit. IX, § 901 (2022).

⁴¹ Spectrum Innovation Act, H.R. 7624, 117th Cong. (2022), <https://www.congress.gov/bill/117th-congress/house-bill/7624?q=%7B%22search%22%3A%22H.R.+7624%22%7D&s=2&r=1>

⁴² Spectrum Auction Reauthorization Act of 2023, H.R. 3565, 118th Cong. (2023) <https://www.congress.gov/bill/118th-congress/house-bill/3565?q=%7B%22search%22%3A%22H.R.+3565%22%7D&s=4&r=1>

⁴³ Bipartisan Budget Act of 2015, tit. X § 1004 (2015).

service rules.⁴⁴ Although H.R. 3565 would amend section 90008, the FCC is currently required to begin this auction no earlier than November 30, 2024.

International Spectrum Issues

The World Radio Conference (WRC) is a treaty-level conference hosted by the International Telecommunication Union (ITU), under the auspices of the United Nations. The WRC, held every three or four years, offers an opportunity to harmonize spectrum allocations globally for certain uses, as well as adopt appropriate protections. In preparation for these conferences, the FCC creates an advisory committee that provides recommendations to the FCC to inform its role in working with NTIA and the U.S. delegation head to develop the United States' unified position. On April 12, 2023, the FCC released a public notice seeking comment on the recommendations submitted by the WRC Advisory Committee (WAC) to the FCC.⁴⁵ In May 2023, the United States participated in a regional preparatory meeting held by the Inter-American Telecommunication Commission (CITEL). In August, the United States will participate in the final CITEL meeting prior to the WRC,⁴⁶ which will be held November 20 - December 15, 2023, in Dubai, United Arab Emirates.⁴⁷

3. Supply Chain Security

On March 12, 2020, Congress enacted the Secure and Trusted Communications Networks Act (STCNA) of 2019.⁴⁸ The law prohibits a USF recipient from purchasing, obtaining, or maintaining any equipment or services from companies posing a national security threat, and requires the FCC to publish a list of “covered communications equipment or services” within one year that pose such a threat. The law also established a program to reimburse certain eligible communications providers for replacing covered communications equipment or services. Through the Consolidated Appropriations Act, 2021, Congress provided \$1.9 billion to the FCC for the reimbursement program.⁴⁹ That law also amended STCNA by raising the eligibility threshold from communications providers with 2 million subscribers to 10 million subscribers.⁵⁰

In July 2022, the FCC announced that 181 applicants submitted requests for reimbursement and that it would need \$4.98 billion to fund all reasonable and supported cost estimates and administrative expenses for the program—a shortfall of \$3.08 billion.⁵¹ Absent additional appropriations, the FCC plans to pro-rate each applicant's allocation by 39.5

⁴⁴ IIA § 90008.

⁴⁵ *Office of International Affairs Seeks Comment on Recommendations Approved by the World Radiocommunication Conference Advisory*, IB Docket No. 16-185, Public Notice, DA 23-296 (OIA 2023), <https://www.fcc.gov/document/oia-seeks-comment-recommendations-approved-wac>.

⁴⁶ XLII Meeting of PCC.II, held Aug. 28-Sept 1, 2023, <https://www.oas.org/citevents/en/Events/ByStructure/4>

⁴⁷ <https://www.itu.int/wrc-23/>

⁴⁸ Secure and Trusted Communications Networks Act of 2019, P.L. 116-124 (2020), *codified at* 47 U.S.C. 1601, et seq.

⁴⁹ Consolidated Appropriations Act, 2021 § 906(2).

⁵⁰ *Id.* § 901(1)(A).

⁵¹ Letter from Jessica Rosenworcel, Chair, FCC, to the Hon. Maria Cantwell et al. (July 15, 2022), <https://docs.fcc.gov/public/attachments/DOC-385335A1.pdf>.

percent.⁵² H.R. 3565 would ensure that the FCC receives the full \$4.98 billion needed for this program. Under the current rules, an applicant approved for funding support is required to submit at least one reimbursement claim to the FCC by July 15, 2023, and STCNA requires program recipients to complete the permanent removal, replacement, and disposal of covered communications equipment and services in their networks within one year of the initial distribution of reimbursement funds to the recipient.⁵³

On November 11, 2021, Congress also enacted the Secure Equipment Act into law. The Secure Equipment Act requires the FCC to adopt rules to update the equipment authorization procedures of the Commission to no longer review or approve any application for equipment authorization for equipment that is on the list of covered communications equipment and services published by the FCC pursuant to section 2(a) of STCNA. The FCC adopted rules on November 25, 2022.⁵⁴

4. Combatting Illegal Robocalls

Illegal robocalls continue to be a scourge for Americans. YouMail estimates that 5.1 billion robocalls were placed in May 2023.⁵⁵ In 2019, Congress enacted the TRACED Act to provide the FCC, communications providers, and consumers new tools to combat illegal robocalls.⁵⁶ This law required providers to implement the STIR/SHAKEN caller ID authentication framework in the IP portions of their networks. It also increased penalties and extended the statute of limitations for certain robocall violations with the intent to cause the violation and directed the FCC to work with the Department of Justice (DOJ) to identify and remove barriers to enforcement of robocalls violations. In addition, the RAY BAUM'S Act included provisions that prohibited spoofing calls or texts originating outside the United States.

The FCC has taken a number of actions on its own to combat illegal robocalls. In June 2019, the FCC issued a declaratory ruling to allow telecommunications carriers to block some robocalls before reaching consumers' phones.⁵⁷ In May 2022, the FCC adopted rules to require gateway providers bringing foreign traffic into the United States to apply STIR/SHAKEN to foreign-originated calls and to perform robocall mitigation on such calls.⁵⁸ Last month, the FCC adopted rules requiring all providers to participate in 24-hour traceback to ensure that any

⁵² *Id.*

⁵³ 47 U.S.C. 1603(d)(6)(A).

⁵⁴ *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program*, ET Docket No. 21-232 et al., Report and Order, Order, and Further Notice of Proposed Rulemaking, FCC 22-84 (rel. Nov. 25, 2022), <https://docs.fcc.gov/public/attachments/FCC-22-84A1.pdf>.

⁵⁵ Robocall Index, YouMail, <https://robocallindex.com/> (last accessed June 11, 2023).

⁵⁶ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act, P.L. 116-105 (2019).

⁵⁷ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Declaratory Ruling and Third Notice of Proposed Rulemaking, 34 FCC Rcd 4876 (2019), <https://docs.fcc.gov/public/attachments/FCC-19-51A1.pdf>.

⁵⁸ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 et al, Sixth Report and Order and Seventh Further Notice of Proposed Rulemaking (2022), <https://docs.fcc.gov/public/attachments/FCC-22-37A1.pdf>.

immediate upstream provider from which they accept call traffic is not carrying or processing a high volume of illegal traffic.⁵⁹ The Commission also proposed rules requiring providers to offer analytics-based call blocking and block calls based on a reasonable do-not-originate list.

In March, the Commission adopted rules requiring mobile providers to block texts purporting to be from numbers on a reasonable do-not-originate list.⁶⁰ The FCC also proposed additional rules to require blocking of additional texts.

5. Media

Standard General-Tegna Merger

In March 2022, Standard General announced it would acquire TEGNA, one of the largest local news broadcast companies in the country, through a \$5.4 billion deal.⁶¹ Because this transaction involves the transfer of FCC licenses, it required FCC, in addition to DOJ, approval. The FCC refused to act on the deal for over a year, well past its informal 180-day timeline to approve such transactions, and even after DOJ approved the merger.

On February 24, 2023, the FCC's Media Bureau designated the transaction for a hearing before an Administrative Law Judge, an unprecedented action for such a transaction. This prompted Chair Rodgers and Senate Commerce Committee Ranking Member Ted Cruz to send Chairwoman Rosenworcel a letter requesting information regarding unprecedented actions made by the FCC.⁶² Following an inadequate response, Chair Rodgers and Ranking Member Cruz requested an FCC Inspector General review of Chairwoman Rosenworcel's actions.⁶³ On May 22, 2023, Standard General and Tegna announced they were terminating their deal.⁶⁴

Media Regulations

Section 202(h) of the Telecommunications Act of 1996 requires the FCC to review its media ownership rules every four years to determine whether they remain "necessary in the

⁵⁹ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59 et al, Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking and Third Notice of Inquiry (2023), <https://docs.fcc.gov/public/attachments/FCC-23-37A1.pdf>.

⁶⁰ *Targeting and Eliminating Unlawful Text Messages*, CG Docket No. 21-402, Report and Order and Further Notice of Proposed Rulemaking (2023), <https://docs.fcc.gov/public/attachments/FCC-23-21A1.pdf>.

⁶¹ Press Release, TEGNA to be Acquired by Standard General for \$24.00 Per Share, TEGNA, (Feb. 2, 2022), <https://www.tegna.com/tegna-to-be-acquired-by-standard-general-for-24-00-per-share/>.

⁶² Press Release, Rodgers and Cruz Request Answers from FCC on Action Effectively Blocking Planned Standard General Acquisition of TEGNA, House. Comm. on Energy & Comm. (Apr. 5, 2023), <https://energycommerce.house.gov/posts/rodgers-and-cruz-request-answers-from-fcc-on-action-effectively-blocking-planned-standard-general-acquisition-of-tegna>

⁶³ Letter from Ted Cruz, Ranking Member, S. Comm. on Commerce, Sci. & Transp., and Cathy McMorris Rodgers, Chair, H. Comm. on Energy & Commerce, to The Hon. Sharon Diskin, Acting Inspector General, FCC (May 16, 2023), <https://www.commerce.senate.gov/services/files/FD10883F-3104-4CA0-A0CD-6CF32ADE0F1A>.

⁶⁴ Bevin Fletcher, Standard General, Tegna Terminate Deal, Fierce Video, May 23, 2023, <https://www.fiercevideo.com/video/standard-general-tegna-deal-terminated>.

public interest as the result of competition.”⁶⁵ The FCC began its 2022 Quadrennial Review on December 22, 2022.⁶⁶

The 2018 Quadrennial Review remains pending due to litigation over the 2014 Quadrennial Review that did not conclude until the Supreme Court’s *FCC v. Prometheus Radio Project* decision in 2021.⁶⁷ That decision affirmed the FCC’s decision to eliminate several restrictions on media ownership that it determined were no longer necessary to serve the agency’s public interest goals of promoting competition, localism, and viewpoint diversity.⁶⁸ Because that decision occurred three years after the FCC began its 2018 review, the Commission had to refresh the record on that proceeding.⁶⁹ It has not completed that review.

6. Public Safety

Emergency Alert System

One of the core statutory functions of the FCC is to promote public safety through the use of wire and radio communication.⁷⁰ As part of this mission, the FCC plays an important role in making sure emergency alerting technologies effectively warn the public of impending emergencies, including AM radio. There are two general delivery mechanisms that the FCC oversees in cooperation with FEMA to deliver these warnings: 1) EAS, a broadcast-based national public warning system for the delivery of alerts via broadcast stations, multichannel video programming distributors (MVPDs); and 2) Wireless Emergency Alerts (WEA), a system for the delivery of emergency alerts to mobile devices.⁷¹

National Suicide Prevention Hotline

On July 16, 2020, the Commission adopted rules to establish 9-8-8 as the new, nationwide, 3-digit phone number for Americans to connect with a suicide prevention or mental health crisis counselor.⁷² These rules required providers of voice service to route all 9-8-8 calls to the existing National Suicide Prevention Lifeline by July 16, 2022.

⁶⁵ Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h) (1996)

⁶⁶ *Media Bureau Opens Docket and Seeks Comment for 2022 Quadrennial Review of Media Ownership Rules*, MB Docket No. 22-459, Public Notice, DA 22-1364 (MB 2022), <https://docs.fcc.gov/public/attachments/DA-22-1364A1.pdf>.

⁶⁷ 141 S.Ct. 1150, 1154 (2021).

⁶⁸ *See 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 14-50 et al, Order on Reconsideration and Notice of Proposed Rulemaking (2017), <https://docs.fcc.gov/public/attachments/FCC-17-156A1.pdf>; *Prometheus*, 141 S.Ct. at ____.

⁶⁹ *Media Bureau Seeks to Update Public Record in the 2018 Quadrennial Regulatory Review*, Public Notice, 36 FCC Rcd 9363 (MB 2021).

⁷⁰ 47 U.S.C. §154

⁷¹ *Wireless Emergency Alerts, Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Docket No. 15-91 et al., Notice of Proposed Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 11112, (2016), https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-127A1.pdf.

⁷² *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order, 35 FCC Rcd 7373 (2020), <https://docs.fcc.gov/public/attachments/FCC-20-100A1.pdf>.

Safe Connections Act

On December 7, 2022, Congress enacted the Safe Connections Act of 2022.⁷³ This law directed the FCC to adopt rules requiring mobile providers, upon request, to separate the line of a survivor of domestic violence from a mobile contract shared with an abuser, as well as protect the privacy of calls to certain hotlines. The law also directed the FCC to designate either the Affordable Connectivity Program or Lifeline as a program to assist survivors suffering from financial hardship. The FCC proposed rules to implement this law on February 16, 2023.⁷⁴

7. Satellite Communications Licensing

The FCC has used its authority to regulate interstate and foreign communication by wire or radio⁷⁵ and its authority for authorizing the use of spectrum⁷⁶ to regulate the transmission and reception of satellite communications for decades. It therefore plays an important role in advancing the availability of satellite-provided communications services.⁷⁷

In recent years, the satellite communications marketplace has seen rapid development and innovation in a short period of time.⁷⁸ Despite the work of FCC staff to review applications, many applications still face delay given the complex nature of the applications and novel issues raised by technological advancements that were not envisioned when the FCC's existing rules were written. On March 23, 2023, the Committee unanimously passed H.R. 1338, the Satellite and Telecommunications Streamlining Act, which would establish a streamlined statutory framework for licensing geostationary and non-geostationary orbit satellite systems to promote market entry, competition, innovation, and efficient use of spectrum.

In April, the FCC adopted new rules governing spectrum sharing among satellite constellations and sought comment on additional rules.⁷⁹ These rules are designed to promote market entry, regulatory certainty, and spectrum efficiency through good-faith coordination. It also proposed rules on the level of protection from harmful interference afforded to other satellite systems.

⁷³ Safe Connections Act of 2022, P.L. 117-223 (2023), <https://www.congress.gov/bill/117th-congress/house-bill/7132/>.

⁷⁴ *Supporting Survivors of Domestic and Sexual Violence*, WC Docket No. 22-238 et al., Notice of Proposed Rulemaking, FCC 23-9 (rel. Feb. 17, 2023), <https://www.fcc.gov/document/fcc-looks-help-domestic-violence-survivors-access-connectivity-0>.

⁷⁵ Communications Act of 1934 § 2, *codified at* 47 U.S.C. § 152.

⁷⁶ 47 U.S.C. 303(r).

⁷⁷ Communications Act of 1934 §§ 2, 303; *codified at* 47 U.S.C. §§ 152; 303(r).

⁷⁸ *Expediting Initial Processing of Satellite and Earth Station Applications*, IB Docket No. 22-411, Notice of Proposed Rulemaking (2022), <https://www.fcc.gov/document/fcc-takes-latest-step-improve-satellite-application-process>.

⁷⁹ *Revising Spectrum Sharing Rules for NonGeostationary Orbit, Fixed-Satellite Service Systems*, IB Docket No. 21-456, Report and Order and Further Notice of Proposed Rulemaking, FCC-23-29 (rel. Apr. 21, 2023), <https://docs.fcc.gov/public/attachments/FCC-23-29A1.pdf>

On November 3, 2022, the FCC proposed reorganizing its International Bureau into a Space Bureau and a standalone Office of International Affairs with a stated goal of better supporting the FCC’s processing of satellite license applications, promote long-term technical capacity at the FCC, and navigate 21st century global communications policy.⁸⁰ The Commission approved this change on January 9, 2023,⁸¹ and the Space Bureau was established on April 11, 2023.

8. Net Neutrality

In 2015, the FCC adopted, on a party-line vote, the *Open Internet Order*,⁸² reclassifying broadband internet access service as a Title II telecommunications service, leading to public-utility style regulation of broadband with several regulatory changes unrelated to the neutral carrying of traffic. In 2017, the Commission approved the *Restoring Internet Freedom Order*, which reversed the 2015 Order, reinstating the “light touch” regulatory approach to broadband under Title I of the Communications Act, while also enacting strong consumer protections.⁸³ Since then, Americans have enjoyed faster Internet speeds⁸⁴ and broadband networks withstood increased traffic during the COVID-19 pandemic. Unlike in Europe,⁸⁵ American broadband and edge providers did not have to throttle service or take other measures to reduce or manage increased usage caused by telework, remote education, or streaming.⁸⁶

V. KEY QUESTIONS

- What is the future of the Universal Service Fund?
- How is the FCC preventing waste, fraud, and abuse in the Affordable Connectivity Program?
- How accurate are the FCC’s new broadband maps?

⁸⁰ Press Release, Chairwoman Rosenworcel Proposes Space Bureau, FCC, (Nov. 3, 2022), <https://www.fcc.gov/document/chairwoman-rosenworcel-proposes-space-bureau>.

⁸¹ *Establishment of the Space Bureau and the Office of International Affairs and Reorganization of the Consumer and Governmental Affairs Bureau and the Office of the Managing Director*, MD Docket No. 23-12, Order, FCC 23-1 (rel. Jan. 9, 2023), <https://www.fcc.gov/document/fcc-votes-establish-space-bureau-office-international-affairs>.

⁸² *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, 30 FCC Rcd 5601 (2015), https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-24A1.pdf.

⁸³ *Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Order, Report and Order, 33 FCC Rcd 311 (2017).

⁸⁴ See Claude Thompson, Average Internet Speed Up One Year After Net Neutrality Repeal, Wash. Examiner, June 18, 2019, <https://www.washingtonexaminer.com/news/average-internet-speed-up-one-year-after-net-neutrality-repeal>.

⁸⁵ Ryan Browne, *The Internet is Under Huge Strain Because of the Coronavirus. Experts Say it Can Cope — For Now*, CNBC (Mar. 27, 2020), <https://www.cnbc.com/2020/03/27/coronavirus-can-the-internet-handle-unprecedented-surge-in-traffic.html>; see also Press Release, BEREC, Coping with the Increased Demand for Network Connectivity (Mar. 19, 2020), https://berec.europa.eu/eng/document_register/subject_matter/berec/press_releases/9237-press-release-coping-with-the-increased-demand-for-network-connectivity (authorizing European internet providers to take exceptional traffic management measures to address increased demand).

⁸⁶ Netflix and YouTube Are Slowing Down in Europe to Keep the Internet from Breaking, Hadas Gold, CNN, March 20, 2020, <https://www.cnn.com/2020/03/19/tech/netflix-internet-overload-eu/index.html>.

- How does the lapse in spectrum auction authority affected the FCC and American wireless leadership?

VI. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Kate O'Connor, Slate Herman, Giulia Leganski, John Lin, or Evan Viau of the Committee Staff at (202) 225-3641.